

REMARKS

I. Summary of the Office Action

Claims 1-17 are pending in this application.

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being obvious over Young U.S. Patent No. 4,706,121 ("Young") in view of Yuen et al. U.S. Patent No. 5,307,173 ("Yuen") and further in view of Tomita U.S. Patent No. 5,193,005 ("Tomita").

Claims 16 and 17 are rejected under 35 U.S.C. § 103(a) as being obvious over Young in view of Yuen in view of Tomita and further in view of Park U.S. Patent No. 5,193,009 ("Park").

II. Reply to the Prior Art Rejections

Applicant's independent claims 1 and 8 have been rejected under 35 U.S.C. § 103(a) as being obvious over Young in view of Yuen and further in view of Tomita. Applicant respectfully traverses these rejections.

A. Tomita Is Entitled to a 35 U.S.C.
 § 102(e) Date of May 1, 1990, at the Earliest

Applicant respectfully submits that Tomita is entitled to a 35 U.S.C. § 102(e) date of May 1, 1990, at the earliest. In particular, the Manual of Patent Examining Procedure (MPEP) § 706.02(f)(1)(I)(D) states that:

"Foreign applications' filing dates that are claimed (via 35 U.S.C. 119(a)-(d), (f), or 365(a) or (b)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be

used as 35 U.S.C. 102(e) dates for prior art purposes. This includes international filing dates claimed as foreign priority dates under 35 U.S.C. 365(a) or (b)."

Tomita is a U.S. Patent that claims priority under 35 U.S.C. § 119 to a foreign application, namely, Japanese Patent Application No. 1-112894, filed May 1, 1989. According to the recitation from the MPEP above, Tomita is not entitled to the May 1, 1989 foreign filing date of Japanese Patent Application No. 1-112894 for 35 U.S.C. § 102(e) prior art purposes. Therefore, the earliest possible 35 U.S.C. § 102(e) date of Tomita is the May 1, 1990 filing date of its related U.S. application, U.S. Application No. 07/517,655.

B. Tomita Does Not Qualify as
Prior Art Against the Instant Application

As described above, Tomita's earliest possible 35 U.S.C. § 102(e) date is May 1, 1990. However, the instant application has an effective filing date of October 30, 1989. In particular, the instant application is a continuation of U.S. Patent App. No. 09/898,298, filed July 2, 2001, now abandoned, which is a continuation of U.S. Patent App. No. 08/955,430, filed October 21, 1997, now abandoned, which is continuation of U.S. Patent App. No. 08/400,166, filed March 7, 1995, now abandoned, which is a divisional of U.S. Patent App. No. 08/079, 502, filed June 16, 1993, now U.S. Patent No. 5,727,060, which is a continuation-in part of U.S. Patent App. No. 08/033,773, filed March 19, 1993, now U. S. Patent No.5, 353,121, which is a continuation-in-part of both U.S. Patent App.

No. 07/579,555, filed September 10, 1990, now abandoned, and U.S. Patent App. No. 07/916,043, filed July 17, 1992, now abandoned, which is a continuation of U.S. Patent App. No. 07/778,404, filed October 17, 1991, now U.S. Patent No. 5,151,789, which is a continuation-in-part of U.S. Patent App. No. 07/428,620 ("the '620 application"), filed October 30, 1989, now abandoned.

Applicant's claims are fully supported by the '620 application as originally filed. For example, support for applicant's independent claims 1 and 8 of the instant application can be found at least at page 8, lines 8-14, page 5 line 35 through page 6, line 19, page 8, lines 26-28, and FIG. 1 of the '620 application. Therefore, the instant application has an effective filing date of October 30, 1989, *i.e.*, the actual filing date of the '620 application.

Therefore, because Tomita has a 35 U.S.C. § 102(e) date that is later than the effective filing date of the instant application, Tomita does not qualify as prior art against the instant application under 35 U.S.C. § 102(e), and hence, under 35 U.S.C. § 103. Accordingly, applicant respectfully requests that the rejection of independent claims 1 and 8 under 35 U.S.C. § 103(a) be withdrawn. Further, because claims 2-7 and 9-17 depend from independent claims 1 and 8, applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of these claims also be withdrawn.

Application No. 10/733,891
Amendment dated September 3, 2010
Reply to Office Action of April 28, 2010

III. Conclusion

For at least the reasons set forth above, applicant respectfully submits that this application is in condition for allowance. Reconsideration and prompt allowance are accordingly respectfully requested.

Respectfully submitted,

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